



Atty. Dkt. No.: 071949-1307

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Kenneth F. Buechler

Title: DIAGNOSTIC DEVICES AND
APPARATUS FOR THE
CONTROLLED MOVEMENT
OF REAGENTS WITHOUT
MEMBRANES

Appl. No.: 09/613,650

Filing Date: July 11, 2000

Examiner: Alexander, Lyle

Art Unit: 1743

<p>CERTIFICATE OF MAILING</p> <p>I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope address to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date below:</p> <p><u>Vanessa E. Agha</u> (Printed Name)</p> <p><u>Vanessa E. Agha</u> (Signature)</p> <p><u>June 15, 2006</u> (Date of Deposit)</p>

**PETITION UNDER 37 CFR §§ 1.181 OR 1.182 TO ACCEPT A FILING AS OF IT'S
DATE OF FACSIMILE TRANSMISSION IN ACCORDANCE WITH 37 CFR §1.8**

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

Responsive to the Non-Final Office Action, mailed February 7, 2006, attached herewith is a copy of a response in compliance with 37 CFR 1.111 previously filed with the USPTO by facsimile transmission on May 8, 2006.

The facsimile transmission of May 8, 2006 has met the requirements of 37 CFR § 1.8(a)(1)(i)(B) because it qualifies as a suitable document for facsimile transmission in accordance with 37 CFR § 1.6(d), and includes a certificate for each piece of correspondence stating the date of deposit or transmission. Such certificate is titled "Certificate of Facsimile Transmission" and is found at the upper right of page 1 of the Transmittal and page 1 of the

Response as filed. The Certificate is signed by Vanessa Agha, Assistant to the undersigned attorney.

The undersigned states that this facsimile transmission was made on the date indicated. Applicants became aware that the transmission was apparently lost following receipt by the USPTO by checking the status of the filing in the Public Pair system. Also attached is a copy of the sending unit's report confirming facsimile transmission on May 8, 2006. As such, the facsimile transmission return receipt constitutes *prima facie* evidence that the alleged response was in fact previously received by the USPTO on the date indicated.

Applicants have complied with 37 CFR §1.8(b) to have the missing correspondence considered to be timely filed by informing the USPTO promptly of the missing transmission and by providing (herewith) an additional copy of the previously transmitted correspondence and certificate, and by including a copy (herewith) of the sending unit's report confirming transmission may be used to support this statement.

Applicant submits that no fee is due for this Response to Office action or for filing this Petition because the response was lost by the USPTO following receipt. However, should a fee be due, such fee may be charged to Deposit Account No. 50-0872. Applicants also request that there be no loss of patent term extension resulting from any delay that incurred after May 8, 2006 because any such loss of time is the fault of the USPTO.

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The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-0872. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-0872.

Respectfully submitted,

Date

June 15, 2006

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By

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